

**ETHICS COMMISSION  
CITY AND COUNTY OF HONOLULU**



**Advisory Opinion No. 14**

The Council requested an opinion of the Ethics Commission in connection with the following facts:

In Supreme Court Case No. 4968, *Anamizu et al., v. City and County of Honolulu, et al.*, v. Councilman "X" who is a practicing attorney represented Plaintiff Anamizu against the City and County of Honolulu, defendant. The Circuit Court ruled in favor of Plaintiff Anamizu and the case has been appealed by the City and County of Honolulu through the State Supreme Court. Briefs were filed by the parties in the case and a decision is pending. Councilman "X", prior to taking the oath of office as Councilman, severed all relations with Plaintiff Anamizu.

Under the foregoing circumstances, the following provisions from Ordinance No. 3442 (1969) are pertinent:

1. Section 7-14.2(c) provides that:

No officer or employee of the City, except as hereinafter provided, shall:

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c. Appear in behalf of private interests before any agency other than a court of law, nor shall he represent private interests in any action or proceeding against the interests of the City in any litigation to which the City is a part; provided, however, that a member of any board, commission or committee, whose board, commission or committee does not exercise either quasi-judicial or quasi-legislative power, may appear for compensation in behalf of private interests before agencies other than the one on which he serves and other than those agencies that have the power to review the actions of the agency on which he serves, or to act on the same subject matter as the agency which he serves; provided further that no officer or employee shall be denied the right to appear before any agency to petition for redress of grievances caused by any official act or action affecting his personal rights, privileges or property, including real property.

2. Section 7-14.2(a) states that no officer or employee of the City, except as hereinafter provided, shall

a. Participate, as an agent or representative of a city agency, in any official action directly affecting a business or matter in which (1) he has a substantial financial

interest; or (2) by or for which a firm of which he is a member, an associate, or an employee has been engaged as a legal counsel or advisor or consultant or representative in a matter directly related to such action; provided that councilman is not precluded from voting on such matter before the Council so long as a written disclosure has been made in the event there is a conflict of interest involving this subsection and relating to such matter.

Subsection (c) of Section 7-14.2 in pertinent part permits an officer of the City, which includes councilmen who are practicing attorneys, to represent private interests before court; provided that such officer may not represent a private interest in any action or proceeding against the interests of the City in litigation to which the City is a party. However, subsection (a) of Section 7-14.2 in relevant part states that councilman "X" may participate if the Anarnizu case comes before the Council for any action by the Council in which a member of his law firm or an associate of Councilman "X" has been engaged as a legal counsel in the Anamizu case provided that Councilman "X" submits a written disclosure.

A review of the applicable provisions of Section 7-14.2(c) permits the councilmen who are practicing attorneys to represent private interests in a court of law. However, the same section prohibits a councilman who is a practicing attorney to represent private interests which are against the interests of the City in a litigation. In the instant case, since councilman "X" has severed his relation with Plaintiff Anamizu, he does not run afoul of this prohibition.

Based on the foregoing, the Ethics Commission is of the opinion that there is no conflict of interest.

Henceforth, should a case come before the Council for its official action where a councilman who is a practicing attorney representing private interests in a litigation against the interest of the City, the Ethics Commission recommends that such councilman file a written disclosure in the following situations:

1. Where such councilman turns a case over to a member or associate of his law firm to continue to represent such case;
2. Where such councilman may have residual interest in such case such as unpaid fees or other outstanding claims against his former clients although he has severed his relations with the former clients; and
3. Where the councilman has made no written disclosure but orally declared his relationship with such client or orally declared the severance of such relationship.

Dated: Honolulu, Hawaii, March 25, 1971.

ETHICS COMMISSION

Very Rev. Robert R. Mackay, S.L., Chairman

